

JOHN T. GORMAN
Federal Public Defender
First Hawaiian Bank Building
400 Route 8, Suite 501
Mongmong, Guam 96910
Telephone: (671) 472-7111
Facsimile: (671) 472-7120

Attorney for Defendant
BERT R.A. MUNA

FILED
DISTRICT COURT OF GUAM
MAY 21 2007 *mlm*
MARY L.M. MORAN
CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE TERRITORY OF GUAM

UNITED STATES OF AMERICA,)	CR 06-00035
)	
Plaintiff,)	RESPONSE TO DRAFT PRESENTENCE
)	REPORT
vs.)	
)	
BERT R.A. MUNA,)	
)	
Defendant.)	
_____)	

Defendant, BERT R.A. MUNA, by and through counsel, John T. Gorman, Federal Public Defender, respectfully accepts and adopts the findings of the Draft Presentence Investigation Report (PSI) with the following objections.

1. Mr. Muna's Criminal History Category is I not II as stated in the Draft PSI. The Draft PSI assigns one criminal history point for Mr. Muna's July 12, 2006, Superior Court conviction for Possession of a Firearm without an Identification Card. (Paragraph 38, PSI). This is incorrect. As § 4A1.2(a)(1) of the U.S. Sentencing Guidelines (USSG) states, "The term "prior sentence" means any sentence previously imposed upon adjudication of guilt, whether by guilty plea, trial, or plea of nolo contendere, **for conduct not part of the instant offense.**" (Emphasis added). (See also,

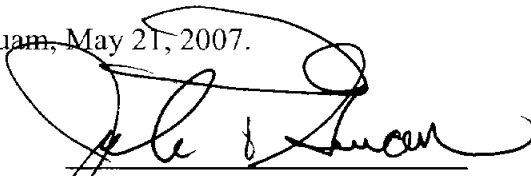
§ 4A1.2 Application Note 3, “Otherwise, prior sentences are considered related if they resulted from offenses that (A) occurred on the same occasion, (B) were part of a single scheme or plan, . . .). Mr. Muna’s instant offense involves the same conduct that took place on January 8, 2006 and was the basis of his July 12, 2006, Superior Court conviction and thus, cannot count as a Criminal History point. Thus, Mr. Muna has only one criminal history point and his Criminal History Category is I.

Mr. Muna requests that paragraphs 37, 38 and 58 be amended to reflect that fact that his Criminal History Category is I. He also requests that paragraph 58 be amended to reflect the fact that his guideline range for imprisonment for Total Offense Level 13 and Criminal History Category I is 12-18 months.

2. Mr. Muna’s 6 year-old daughter, Terianalyn, has returned from Washington State and now lives with Mr. Muna, Ms. Villagomez and their 3 other children. He requests that paragraph 43 of the PSI be amended accordingly.

3. Mr. Muna completed Anger Management Treatment and Training on May 8, 2007, through Guam’s Superior Court Client Services and Family Counseling Division. (See Exhibit A, letter of S. Wayne Butler, M.A.P., Senior Individual Marriage and Family Therapist, dated May 8, 2007). Mr. Muna requests that paragraph 47 of the PSI be amended accordingly.

DATED: Mongmong, Guam, May 21, 2007.



JOHN T. GORMAN
Attorney for Defendant
BERT R.A. MUNA



CLIENT SERVICES AND FAMILY COUNSELING DIVISION

Judiciary of Guam

Guam Judicial Center • W. O'Brien Drive • Hagåtña, Guam 96910

Telephone (671) 475-3101/3383 Fax No: (671) 472-5450



May 8, 2007

TO: Honorable Judge Elizabeth Barrett-Anderson

FROM: Senior Individual Marriage and Family Therapist

SUBJECT: **Bio-Feedback Training Completed**

Defendant: **Bert Robert A. Muña** Case No: CF 0010-06
Judgement

Mr. Muña entered Bio-Feedback Training for Anger Management on February 27, 2007. He completed this training on May 8, 2007 in a total of seven (7) sessions.

This completes the counseling recommended by CSFC.


S. Wayne Butler, M.A.P.

pc: Attorney George N. Valdes, Esq.
Attorney J. Basil O'Mallan, III
Anthony P. Aguon, Probation Officer
Bert Robert A. Muña
Case File



CERTIFICATE OF SERVICE

I, RENATE A. DOEHL, hereby certify that a true and exact copy of the foregoing document was filed with U.S. District Court and electronically served by the U.S. District Court Clerk's Office to the following on May 21, 2007:

ROSETTA SAN NICOLAS
Assistant United States Attorney
Sirena Plaza
108 Hernan Cortez, Ste. 500
Hagatna, Guam 96910

Attorney for Plaintiff
UNITED STATES OF AMERICA

STEPHEN GUILLIOT
U.S. Probation Officer
U.S. Probation Office
Districts of Guam and NMI
2nd Floor, U.S. District Court

DATED: Mongmong, Guam, May 21, 2007.

A handwritten signature in black ink, appearing to read 'R. Doehl', written over a horizontal line.

RENATE A. DOEHL
Operations Administrator

JOHN T. GORMAN
Attorney for Defendant
BERT R.A. MUNA